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Viewing cable 05SANJOSE2106, ARTICLE 98 WORRIES REKINDLED IN COSTA RICA

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Understanding cables

Every cable message consists of three parts:

- The top box shows each cable's unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#05SANJOSE2106**.

Reference ID	Created	Released	Classification	Origin
05SANJOSE2106	2005-09-09 23:40	2011-08-30 01:44	CONFIDENTIAL	Embassy San Jose

Appears in these articles:

<http://www.nacion.com/2011-03-14/Investigacion/NotasDestacadas/Investigacion2711020.aspx>
<http://www.nacion.com/2011-03-14/Investigacion/NotasSecundarias/Investigacion2711111.aspx>
<http://www.nacion.com/2011-03-14/Investigacion/NotasSecundarias/Investigacion2711040.aspx>
<http://www.nacion.com/2011-03-14/Investigacion/NotasSecundarias/Investigacion2711039.aspx>
<http://www.nacion.com/2011-03-14/Investigacion/NotasSecundarias/Investigacion2712229.aspx>

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SAN JOSE 002106

SIPDIS

E.O. 12958: DECL: 09/09/2015

TAGS: [PREL](#) [EAID](#) [MASS](#) [CS](#) [KICC](#)

SUBJECT: ARTICLE 98 WORRIES REKINDLED IN COSTA RICA

REF: A. SAN JOSE 234

[1](#)B. 04 SAN JOSE 2233

[1](#)C. 04 SAN JOSE 443

Classified By: Charge Russell Frisbie for reasons 1.4 (a) and (d)

Summary

[1](#)1. (C) Foreign Minister Tovar told Charge that an Article 98 agreement would not be approved in Costa Rica. He was concerned, however, about the impact of the American Servicemembers' Protection Act (ASPA) and the Nethercutt Amendment on important U.S. assistance that Costa Rica had been receiving and had hoped to continue to receive. End summary.

Sudden flurry of press reports

[1](#)2. (U) More than two years after the GOCCR stated unequivocally that it would not sign an Article 98 agreement (03 San Jose 1773), there has been a flurry of press attention to the issue and to the impact of the GOCCR's position on U.S. assistance to Costa Rica. Press interest was sparked by an August 27 reprinting of a New York Times article, "Cuts in economic aid anger neighbors," combined with the August 30-31 visit to Costa Rica of U.S. Southern Command General Craddock.

[1](#)3. (U) Costa Rican press reports on Article 98, the American Servicemembers' Protection Act (ASPA), and the Nethercutt Amendment have contained a number of errors, which post has

been trying to correct. A September 8 editorial in the business daily, "La Republica," for example, stated that "the giant of the north" was pressuring Costa Rica to renounce its membership in the International Criminal Court (ICC) and also reported falsely that the USG had cut a program benefiting disabled persons because the GOCR refused to sign an Article 98 agreement. The editorial concludes that the GOCR was correct "not to accept a laceration of our sovereignty."

MFA views

14. (U) Foreign Minister Tovar, responding to press inquiries about ASPA and the Nethercutt Amendment, said: "For the love of God, this is not the way to treat a country that is your friend." He complained that the U.S. laws affecting aid to Costa Rica were "offensive" and asked why they make exceptions for Argentina, Australia, Japan, and European countries, but not for Costa Rica.

15. (C) Charge paid a call on Tovar September 9 to discuss, among other things, Article 98 and to correct inaccuracies in the press. Tovar said that Costa Rica would never be party to a politicized prosecution of a U.S. person, but it also could not take any action that would "undermine" its commitment to the ICC. He pointed out that even if the GOCR were to sign an Article 98 agreement, the Legislative Assembly would not ratify it and Costa Rica's Supreme Court would find an Article 98 agreement to be unconstitutional. Charge stressed the importance of finding a formula to ensure that Costa Rica does not surrender a U.S. person to the ICC.

Comment

16. (C) The effects of ASPA and the Nethercutt Amendment are beginning to be felt in Costa Rica. The Costa Rican Coast Guard and police are not getting the training they have been accustomed to receiving under our Bilateral Maritime Agreement for Counternarcotics Cooperation, and it will become increasingly difficult for the Coast Guard to repair its ships without U.S. assistance. Costa Rica counternarcotics capability undoubtedly will diminish over time. Further, trade-capacity assistance for implementation of the U.S.-Central American-Dominican Republic Free Trade Agreement (CAFTA-DR), to the extent it is funded with Economic Support Funds (ESF), will also suffer. Nonetheless, the loss of assistance and consequent increase in the flow of illegal drugs through Costa Rican territory and waters is unlikely to change any minds in the GOCR regarding Article 98.

FRISBIE